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RECENT CASES

ADVERSE POSSESSION—INSTRUCTIONS—PRESUMPTIONS.—*LEWIS v. POPE*, 68 S. E., 680 (S. C.).—*Held*, that in an action for the possession of land when defendants show adverse possession by themselves and their ancestors for over twenty years, a request to charge that the mere going on the land, while living on another tract, and cultivating a part of it for a few years, or occasionally cutting wood upon it, is not possession from which it can be presumed that there was a deed properly refused.

Possession in order to ripen into a title to land must be actual, continuous, visible, notorious, and hostile to that of the true owner. *Smeberg v. Cunningham*, 96 Mich., 378. Such actual possession of land consists in exercising acts of dominion over it, in making ordinary use of it, and in taking the profits of which it is susceptible. *Webber v. Clarke*, 74 Cal., 11; *Collett v. Vanderbaugh County*, 119 Ind., 27. This domination may consist in a great number of acts, and in the absence of statutes designating certain things as requisites, the law has prescribed no particular manner in which possession shall be maintained. *Adams v. Clapp*, 87 Me., 316; *Eastern R. R. v. Allen*, 135 Mass., 13. In thus determining whether a possession is actual or not, all the circumstances of the case must be considered such as the situation of the parties, the character of the land, and the purposes to which it has been adapted. *Houghton v. Wilhelmy*, 157 Mass., 521; *Bowen v. Guild*, 130 Mass., 121. Ordinarily, however, acts of ownership are sufficient to constitute possession, which are of such a nature as a party would exercise over his own property and not over another's. *Farley v. Smith*, 39 Ala., 38; *Hubbard v. Kiddo*, 87 Ill., 578. Hence, the actual residence of the claimant upon the land has been the most effectual mode of manifesting possession. *Bennett v. Kovarick*, 23 Misc. (N. Y.), 73, and in like manner the improvement of land, reducing it to cultivation, opening up mines, are also regarded as indicating an actual and adverse possession. *Deer Lake Co. v. Mich. Land Co.*, 89 Mich., 180; *Butler v. Drake*, 62 Minn., 229; *Stephenson v. Wilson*, 50 Wis., 95. But the occasional cutting of timber is not alone such evidence of ownership as would amount to possession adverse to the true owner, although there are some decisions to the contrary. *Burks v. Mitchell*, 78 Ala., 61; *Yokum v. Fickey*, 37 W. Va., 762; *Brett v. Farr*, 66 Iowa, 684. Nor do mere acts of trespass upon vacant and uninclosed lands not amounting to an exclusive appropriation thereof and not made under a *bona fide* ownership constitute an adverse possession. *Chicago & N. W. R. Co. v. Galt*, 133 Ill., 657; *Aiken v. Ela*, 62 N. H., 400.

BILLS AND NOTES—RIGHT OF TRANSFEREE—COLLATERAL SECURITY.—*GAY v. HUDSON RIVER ELECTRIC POWER Co.*, 180 FED., 222.—*Held*, that where a company sold goods under a contract, retaining the title until the payment of purchase money notes, the transfer of the notes carried with it the contract in so far as it reserved the title to the goods, as collateral secur-

ity for the payment of the notes, though the transferee at the time of the transfer was ignorant of the existence of the contract.

In general a lien or mortgage securing a negotiable note passes as an incident to the note to a *bona fide* assignee of the note before maturity. *Tweto v. Horton*, 90 Minn., 451; *Brass v. Green*, 113 Ill. App., 58. And an assignment of one of several notes secured by a mortgage acts as a *pro tanto* assignment of the rights under the mortgage. *Harman v. Barhydt*, 20 Neb., 625. Furthermore, one who purchases a note secured by a general guaranty is entitled to the benefit of such guaranty, though he buys in ignorance thereof. *Tidionte Savings Bank v. Libbey*, 101 Wis., 193. Since the assignment of a note ordinarily operates as an assignment of a mortgage made to secure the note, where it so operates an irregular assignment of the mortgage is immaterial. *Robinson v. Campbell*, 60 Kan., 60. However, a mere vendor's lien for purchase money will not, without a contract and in the absence of a statute, be enforced in favor of an assignee of the notes given for the purchase money. *Wellborn v. Williams*, 9 Ga., 86.

CORPORATIONS—RECEIVERS—CLAIMS FOR INTEREST.—*BLAIR v. CLAYTON ENTERPRISE Co.*, 77 ATL., 740 (DEL.).—*Held*, that in distributing assets of an insolvent corporation, interest should be allowed only on claims of creditors who, in probating them, ask for interest, and those who do not will be assumed to have either waived it or not to be entitled to it.

As a general rule, after property of an insolvent passes into the hands of a receiver, interest is not allowed on the claims of creditors. *Thomas v. Western Car Co.*, 149 U. S., 95. But the creditor may obtain interest when he asks specially for it and shows that there were funds on hand to pay all of the demands and accrued interest. *New York Security & Trust Co. v. Lombard Inv. Co.*, 73 Fed., 537. And where the payment of a dividend is deferred by reason of an unsuccessful contest of a claim by a receiver, the creditor so delayed is allowed interest on the dividend in equity. *Citizens' Savings Bank v. Vaughan*, 115 Mich., 156; *Armstrong v. American Exch. Bank*, 133 U. S., 433. But where damages occurred after the appointment of a receiver, in a suit for such damages, the allowance of interest on the claims from the date when the decision was filed on which the decree was afterward entered, was held to be within the discretion of the court. *Central Trust Co. v. Denver & R. G. R. Co.*, 97 Fed., 239. Furthermore, interest on dividends should not be allowed one who voluntarily delays presenting his claim until long after the dividends have been declared. *Chemical Nat. Bank v. Armstrong*, 59 Fed., 372. Moreover, the security and priority of the lien attaches as well to interest as to principal. *Central Trust Co. v. Condon*, 67 Fed., 84.

CORPORATIONS—SALES OF STOCK—BREACH OF WARRANTY—INSTRUCTION.—*ILER v. JENNINGS*, 68 S. E., 104 (S. C.).—*Held*, that where it appeared that the seller of corporate stock referred the purchaser to the book-keeper for information as to the status of the business, and that the statement given was affirmed by the seller to be correct according to the